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SENATE BILL 650

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Cisco McSorley

AN ACT

**RELATING TO LOCAL GOVERNMENTS; AMENDING THE DEVELOPMENT FEES
ACT TO INCLUDE SCHOOLS AND LIBRARIES AS PAYABLE CAPITAL
IMPROVEMENTS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 5-8-2 NMSA 1978 (being Laws 1993,
Chapter 122, Section 2) is amended to read:**

**"5-8-2. DEFINITIONS. --As used in the Development Fees
Act:**

**A. "affordable housing" means any housing
development built to benefit those whose income is at or below
eighty percent of the area median income and who will pay no
more than thirty percent of their gross monthly income towards
such housing;**

B. "approved land use assumptions" means land use

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[bracketed material] = delete

1 assumptions adopted originally or as amended under the
2 Development Fees Act;

3 C. "assessment" means a determination of the amount
4 of an impact fee;

5 D. "capital improvement" means any of the following
6 facilities that have a life expectancy of ten or more years
7 and, except for the facilities specified in Paragraph (5) of
8 this subsection, are owned and operated by or on behalf of a
9 municipality or county:

10 (1) water supply, treatment and distribution
11 facilities; wastewater collection and treatment facilities; and
12 storm water, drainage and flood control facilities;

13 (2) roadway facilities located within the
14 service area, including roads, bridges, bike and pedestrian
15 trails, bus bays, rights of way, traffic signals, landscaping
16 and any local components of state and federal highways;

17 (3) buildings for fire, police and rescue and
18 essential equipment costing ten thousand dollars (\$10,000) or
19 more and having a life expectancy of ten years or more; [~~and~~]

20 (4) parks, recreational areas, open space
21 trails and related areas and facilities; and

22 (5) school buildings and essential equipment
23 costing ten thousand dollars (\$10,000) or more and having a
24 life expectancy of ten years or more;

25 E. "capital improvements plan" means a plan

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1 required by the Development Fees Act that identifies capital
2 improvements or facility expansion for which impact fees may be
3 assessed;

4 F. "county" means a county of any classification;

5 G. "facility expansion" means the expansion of the
6 capacity of an existing facility that serves the same function
7 as an otherwise necessary new capital improvement, in order
8 that the existing facility may serve new development. [The
9 term] "Facility expansion" does not include the repair,
10 maintenance, modernization or expansion of an existing facility
11 to better serve existing development [~~including schools and~~
12 ~~related facilities~~];

13 H. "hook-up fee" means a reasonable fee for
14 connection of a service line to an existing gas, water, sewer
15 or municipal or county utility;

16 I. "impact fee" means a charge or assessment
17 imposed by a municipality or county on new development in order
18 to generate revenue for funding or recouping the costs of
19 capital improvements or facility expansions necessitated by and
20 attributable to the new development. [The term] "Impact fee"
21 includes amortized charges, lump-sum charges, capital recovery
22 fees, contributions in aid of construction, development fees
23 and any other fee that functions as described by this
24 definition. [The term] "Impact fee" does not include hook-up
25 fees, dedication of rights of way or easements or construction

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1 or dedication of on-site water distribution, wastewater
2 collection or drainage facilities or streets, sidewalks or
3 curbs if the dedication or construction is required by a
4 previously adopted valid ordinance or regulation and is
5 necessitated by and attributable to the new development;

6 J. "land use assumptions" includes a description of
7 the service area and projections of changes in land uses,
8 densities, intensities and population in the service area over
9 at least a five-year period;

10 K. "municipality" means any incorporated city, town
11 or village, whether incorporated under general act, special act
12 or special charter, and H class counties, including any home
13 rule municipality or H class county chartered under the
14 provisions of Article 10, Section 6 of the constitution of New
15 Mexico;

16 L. "new development" means the subdivision of land;
17 reconstruction, redevelopment, conversion, structural
18 alteration, relocation or enlargement of any structure; or any
19 use or extension of the use of land; any of which increases the
20 number of service units;

21 M "qualified professional" means a professional
22 engineer, surveyor, financial analyst or planner providing
23 services within the scope of his license, education or
24 experience;

25 N. "roadway facilities" means arterial or collector

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1 streets or roads that have been designated on an officially
2 adopted roadway plan of the municipality or county, including
3 bridges, bike and pedestrian trails, bus bays, rights of way,
4 traffic signals, landscaping and any local components of state
5 or federal highways;

6 0. "service area" means the area within the
7 corporate boundaries or extraterritorial jurisdiction of a
8 municipality or the boundaries of a county to be served by the
9 capital improvements or facility expansions specified in the
10 capital improvements plan designated on the basis of sound
11 planning and engineering standards; and

12 P. "service unit" means a standardized measure of
13 consumption, use, generation or discharge attributable to an
14 individual unit of development calculated in accordance with
15 generally accepted engineering or planning standards for a
16 particular category of capital improvements or facility
17 expansions. "

18 Section 2. Section 5-8-5 NMSA 1978 (being Laws 1993,
19 Chapter 122, Section 5) is amended to read:

20 "5-8-5. ITEMS NOT PAYABLE BY FEE. --Impact fees shall not
21 be imposed or used to pay for:

22 A. construction, acquisition or expansion of public
23 facilities or assets that are not capital improvements or
24 facility expansions identified in the capital improvements
25 plan;

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